

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KIEL GREENLEE, et al.,

Plaintiffs, : Case No. 3:16-cv-064

- vs -

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

SANDY'S TOWING AND RECOVERY,
INC., et al.,

Defendants. :

REPORT AND RECOMMENDATIONS

This newly-filed case is before the Court on Plaintiffs' Motion for Summary Judgment under Fed. R. Civ. P. 56(c)(ECF No. 4). The Motion was filed contemporaneously with Plaintiffs' seventy-five page Complaint against seven Defendants, none of whom have yet been served with process. The Motion is completely conclusory, merely asserting without making any showing that none of the Defendants' will be able to produce sufficient evidence to raise a genuine issue of material fact, when neither the Court nor Plaintiffs yet know what defenses any of the Defendants may raise.

It is accordingly respectfully recommended that the Motion be denied without prejudice to its renewal after Defendants have been served with process and had an opportunity to plead.

February 25, 2016.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).